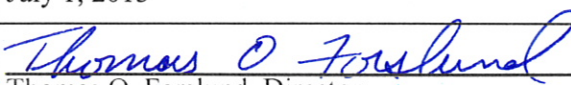
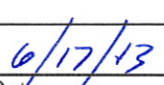


Thomas. O Forslund, Director

Governor Matthew H. Mead

<b>Policy Title:</b>	Disclosures for Legal and Related Purposes
<b>Policy Number:</b>	AS-014
<b>Effective Date:</b>	July 1, 2013
<b>Approval:</b>	<div style="display: flex; justify-content: space-between;"> <div>   Thomas O. Forslund, Director </div> <div>   Date </div> </div>

**Purpose:**

This policy establishes the Wyoming Department of Health's (WDH) procedures relating to disclosures of protected health information (PHI) for legal and related purposes.

**Scope:**

This policy applies to all WDH workforce.

**Policy:**

1. **General.** WDH has a legal and ethical duty to safeguard PHI. In order to meet this duty, WDH shall only disclose PHI for legal or related purposes in compliance with this policy and WDH Policy AS-003; Uses and Disclosures of Protected Health Information. Consistent with these policies, WDH shall tailor all disclosures of PHI that are required by law to strictly comply with the requirements of the applicable statute, rule, regulation, or court order. WDH workforce members shall not disclose PHI that is not specifically requested or required to comply with the law.
2. **Assistance and consultation.** The WDH Compliance Office shall review all requests for PHI from coroners, medical examiners, or law enforcement before any member of the WDH workforce formally responds to the request. Further, the WDH Compliance Office, in conjunction with the division's designated Attorney General's representative, shall review requests for PHI in the form of a court order, a civil or criminal summons or subpoena, or any other request that is related to a court or administrative proceeding. WDH workforce are also encouraged to consult with the WDH Compliance Office and their designated Attorney General's representative regarding questions, concerns, or issues related to any other disclosures described in this policy.
3. **Accounting of disclosures.** In accordance with both federal law and WDH policy, WDH is required to keep a record of any paper, electronic, or verbal disclosures of PHI made pursuant to the legal occurrences specified in this policy.
4. **Disclosures about victims of child or adult abuse or neglect**
  - a. If WDH knows or has reasonable cause to believe or suspect that a child has been abused or neglected, or observes any child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, it shall immediately report the belief, suspicion, or

observation to the Wyoming Department of Family Services (DFS) or local law enforcement as required by Wyo. Stat. Ann. § 14-3-205.

- i. In making such a report, WDH shall provide all PHI necessary to identify the child, the location, and specifics regarding the allegations and the alleged or suspected perpetrator.
- b. If WDH knows or has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, exploited, intimidated, or abandoned, or is committing self-neglect, it shall immediately report the belief to DFS or local law enforcement as required by Wyo. Stat. Ann. § 35-20-103.
  - i. In making such a report, WDH may provide the vulnerable adult's and alleged perpetrator's demographic information, the general nature of the vulnerable adult's physical and living conditions, and information relative to the suspected abuse or neglect.

**5. Disclosures for investigative purposes.** Both Wyoming and federal law permit WDH to disclose PHI for various investigative purposes as described below.

- a. WDH may disclose PHI to a coroner or county medical examiner investigating a suspicious death for the following purposes:
  - i. To identify a deceased person;
  - ii. To determine a cause of death; or
  - iii. For other duties as authorized by law.
- b. WDH may disclose PHI to federal, state, or local law enforcement (e.g., police department, county sheriff, Federal Bureau of Investigation, Immigration and Customs Enforcement, Medicaid Fraud Control Unit (MFCU)):
  - i. Pursuant to legal process and as required by law (e.g., laws that require reporting of certain types of wounds or other physical injuries).
  - ii. To identify or locate a suspect, fugitive, material witness, or missing person, consistent with the requirements of 45 CFR § 164.512(f)(2).
  - iii. About an individual who is an actual or suspected victim of a crime, consistent with the requirements of 45 CFR § 164.512(f)(3).
  - iv. About an individual who has died for the purpose of alerting law enforcement of the individual's death if WDH suspects that the death may have resulted from criminal conduct.
  - v. That WDH believes in good faith constitutes evidence of criminal conduct that occurred on WDH premises.
  - vi. Upon providing emergency health care to an individual not on WDH premises, to alert law enforcement to:
    - A. The commission and nature of a crime;
    - B. The location of such crime or of the victim(s) of such crime; and
    - C. The identity, description, and location of the perpetrator of such crime.
- c. Requests submitted to WDH pursuant to a. and b. above shall be in writing and shall be reviewed by the WDH Compliance Office for authenticity and to determine whether the requesting person or entity is authorized to make the request.

**6. Disclosures for public health activities.** WDH may use or disclose PHI for various public health purposes, including, but not limited to:

- a. To a public health authority authorized by law to collect such information for the purpose of controlling disease, injury, or disability.
- b. To a public health authority authorized by law to receive reports of child abuse or neglect.
- c. To a person subject to the jurisdiction of the FDA with respect to an FDA-regulated product or activity:
  - i. For which that person has responsibility.

- ii. For purposes related to the quality, safety, or effectiveness of the FDA-regulated product or activity (e.g., product recalls, repairs, or replacements).
- d. To persons who may have been exposed to a communicable disease or may be at risk of contracting or spreading a disease or condition.
- e. To any employer, about an individual who is a member of the workforce of the employer, consistent with the requirements of 45 CFR § 164.512(b)(1)(v).
- f. Proof of immunization to a school that is required by state or other law to have proof of such immunization prior to admitting the individual, provided WDH obtains and documents agreement to the disclosure from either:
  - i. A parent, guardian, or other person acting in the place of the parent of the individual, if the individual is an unemancipated minor; or
  - ii. The individual, if the individual is an adult or emancipated minor.

**7. Disclosures for health oversight activities**

- a. WDH may disclose PHI to a health oversight agency for oversight activities authorized by law, including, but not limited to:
  - i. Audits;
  - ii. Civil, administrative, or criminal investigations (e.g., to MFCU);
  - iii. Inspections (e.g., to the Occupational Safety and Health Administration or Healthcare Licensing and Surveys);
  - iv. Licensure or disciplinary actions (e.g., to the Board of Medicine, Board of Nursing, or Healthcare Licensing and Surveys);
  - v. Civil, administrative, or criminal proceedings or actions; or
  - vi. Other activities necessary for appropriate oversight of:
    - A. The health care system;
    - B. Government benefit programs for which health information is relevant to beneficiary eligibility;
    - C. Entities subject to government regulatory programs for which health information is necessary for determining compliance with program standards; or
    - D. Entities subject to civil rights laws for which health information is necessary for determining compliance.
- b. If the health oversight agency is a private entity, such as the Joint Commission (TJC) or the National Association for Public Health Statistics and Information Systems (NAPHSIS), a business associate agreement must be in place prior to disclosing any PHI.

**8. Disclosures for legal proceedings**

- a. Subpoenas. When a subpoena is received, WDH workforce members shall immediately notify the WDH Compliance Office and the division's designated Attorney General's representative.
  - i. The Division shall assist the WDH Compliance Office and designated Attorney General's representative to determine whether the subpoena resulted from a judicial or administrative order, and whether a qualified protective order, under certain circumstances, will be sought.
    - A. If a court or administrative tribunal issues the subpoena, PHI shall be disclosed within the confines of the specific terms of the court or tribunal's order. No other PHI may be disclosed.
    - B. A subpoena received from any other entity must be accompanied by either a valid authorization from the individual whose PHI is being requested or a court order to release such information.

- ii. Special nuances required by additional state or federal laws/regulations may need to be considered when assessing a subpoena for records (e.g., documents containing substance abuse, HIV, or WIC information).
- 9. Disclosures to avert a serious threat.** WDH workforce members may release PHI if they have a good faith belief that the information is:
- a. Necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public; and
  - b. Being disclosed to a person who is reasonably able to prevent or lessen the threat.
- 10. Rights of custodial versus non-custodial parents.** Wyo Stat. Ann. § 20-2-201(e) specifies that custodial and noncustodial parents have the same right of access to their child's medical, dental, and mental health records, unless otherwise ordered by the court.

**Contacts:**

De Anna Greene, CIPP/US, CIPP/G, CIPP/IT, WDH Privacy/Compliance Officer, (307) 777-8664  
Tate Nuckols, JD, WDH Security Officer, (307) 777-2438

**Forms:**

F-011; Use or Disclosure Authorization  
F-014; Accounting of Disclosures Request

**Policies:**

AS-003; Uses and Disclosures of Protected Health Information

**References:**

Wyo. Stat. Ann. §§ 7-1-109 and 7-4-201(b) and (f)  
Wyo. Stat. Ann. § 14-3-205  
Wyo. Stat. Ann. § 20-2-201(e)  
Wyo. Stat. Ann. § 33-21-122(c)(viii) and (ix)  
Wyo. Stat. Ann. §§ 35-1-223; 35-2-910; 35-4-107; 35-4-132; and 35-20-103  
45 CFR § 164.512  
42 CFR Part 2

**Tools:**

R-003; Law Enforcement Requests for PHI

**Training:**